REMARKS

The Office Action dated September 30, 2005 has been received and carefully studied.

The Examiner objects to the drawings because they do not include reference number 49'. The Examiner also objects to the drawings because in Figure 2, reference 29 should be 19. By the accompanying amendment, the line from the triangular reflection mirror 44 to the photodetector 45 labeled as element 49 in Figure 3 has been corrected to 49', and reference 19 in Figure 2 has been corrected to 29.

The Examiner rejects claims 1, 3, 4, 6 and 7 under 35 U.S.C. §103(a) as being unpatentable over Kodaira, U.S. Patent No. 6,493,067 in view of Clark, U.S. Patent No. 5,978,335; claims 2 and 5 as being unpatentable over Kodaira in view of Clark, and further in view of Hanna, U.S. Patent No. 5,568,263; and claim 8 as being unpatentable over Kodaira in view of Clark, and further in view of Yertoprakhov, U.S. Patent No. 6,476,943. The Examiner states that Kodaira discloses a surveying instrument comprising a collimation optical system and a visible laser. Clark is cited for its disclosure of a photodetector and a control means. The Examiner concludes that it would have been obvious to have modified Kodaira to include the photodetector and control means of Clark to allow a user to use the device without feelings of

dizziness. Hanna is cited for its disclosure of a point light photodetector for detecting a point light. Yertoprakhov is cited for its disclosure of a light source that is controlled by a light filter.

By the accompanying amendment, claim 1 has been amended to clarify the present invention. According to the subject matter of claim 1 as amended, a photodetector receives the reflected light of the visible laser point light for collimation. When a photodetection light amount of the reflected light is above a predetermined level, the light source of the point light is controlled, and the intensity of the light emission is reduced or the light emission is stopped.

New independent claim 10 has been added to further define the invention. When the distance measuring optical system receives a reflected distance measuring light, a strong light is reflected by a reflection prism, glass, or the like. In this case, in order to protect the eyes of the operator, the light emitting condition of the point light is controlled based on the photodetection results of the distance measuring optical system.

Claims 2 and 5-8 have been cancelled.

Accordingly, the present invention relates to a surveying instrument, which comprises a collimation optical system other than a distance measuring optical system. In order to prevent

an operator from feeling dizzy, the present invention reduces the intensity of the reflected light that enters the collimation optical system, or stops the light emission of a visible laser beam.

In contrast, Kodaira et al. measure a distance by irradiating and rotating a laser beam and by receiving the laser beam reflected from an object reflector 51. Kodaira et al. disclose a distance measuring unit. However, because Kodaira et al. is a system for irradiating and rotating the laser beam, there is no disclosure or suggestion of collimating a measuring point.

Clark et a. do not supply the deficiencies of Kodaira et al. Clark et a. relate to calibration in an optical disk drive. Feedback control is performed on an output of a laser light source by receiving reflection light.

The present invention separately comprises a collimation optical system other than the distance measuring optical system. Both Kodaira et al. and Clark et al. have one optical system only. Also, in Kodaira et al. and Clark et al., there is no disclosure or suggestion of a collimation optical system as set forth in the instant claims. Accordingly, because Kodaira et al. and Clark et al. do not disclose or suggest the instant collimation optical system, the skilled artisan would not be

motivated to control the light emitting condition of the collimation optical system as claimed, and in particular would not be motivated to control the light emission of the collimation optical system in order to protect the eyes of the operator, in view of Kodaira et al. and Clark et al.

Neither Hanna nor Yertoprakhov supplies the deficiencies of Kodaira et al. and Clark et al.

New claims 9-13 have been added to further define the invention.

Reconsideration and allowance are respectfully requested in view of the foregoing.

Respectfully submitted,

Kevin S. Lemack
Reg. No. 32,579
176 E. Main Street - Suite 7
Westboro, Massachusetts 01581
TEL: (508) 898-1818